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In re Application of
Michael J. **DUNKLEY, et al.**
Application No. 10/822,850
Filed: April 9, 2004
Attorney Docket No. **0198.00**

OFFICE OF PETITIONS

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed January 23, 2009, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on October 27, 2008 with the issue fee being due on or before January 27, 2009. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. Note MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-7253.

The matter is being referred to Technology Center AU 3771 for appropriate processing of the RCE filed January 23, 2009, and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions